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DETENTION
WATCH NETWORK



South Georgia
Immigrant
Support
Network



CENTER *for*
REPRODUCTIVE
RIGHTS



ECMIA
CONTINENTAL NETWORK OF INDIGENOUS
WOMEN OF THE AMERICAS



FAR
FEMINIST
ALLIANCE
for RIGHTS

November 19, 2020

Dubravka Šimonovic

UN Special Rapporteur on violence against women, its causes and consequences

Via email: vaw@ohchr.org

Elizabeth Broderick, Chair-Rapporteur

UN Working Group on Discrimination Against Women and Girls

Via email: wgdiscriminationwomen@ohchr.org

RE: Communication Addressing U.S. Violations of International Law at Immigration Detention Facilities in the U.S. State of Georgia and Calling for a Coordinated Site Visit and International Condemnation.

CC: Felipe González Morales
Special Rapporteur on the human rights of migrants

Working Group on Arbitrary Detention;

Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the rights of people to self-determination;

Nils Melzer, Special Rapporteur on torture and other inhuman, or degrading treatment or punishment;

E. Tendayi Achiume, Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia, and related intolerance;

Tomoya Obokata, Special Rapporteur on Contemporary Forms of Slavery, Including its Causes and its Consequences;

Dainius Puras, Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health;

José Francisco Cali Tzay, Special Rapporteur on the rights of indigenous peoples

Dear Special Rapporteurs Šimonovic and Working Group Chair Broderick:

We submit this urgent communication on behalf of Project South, an organization working extensively with immigrant communities in the U.S. South to end abusive and inhumane immigration detention practices, Detention Watch Network, Georgia Detention Watch, Georgia Latino Alliance for Human Rights (GLAHR), the South Georgia Immigrant Support Network, the Center for Reproductive Rights, the Feminist Alliance for Rights, and the Continental Network of Indigenous Women of the Americas, organizations committed to ensuring the human rights and fundamental bodily integrity of all persons, regardless of their migration status or gender, in response to reports of medical neglect and mistreatment of women in the custody of the U.S. Department of Homeland Security, Immigration and Customs Enforcement (ICE), at the Irwin County Detention Center (ICDC) in Ocilla, Georgia. Reports of abuse include accounts of immigrant women who were subjected to unnecessary gynecological procedures, including non-consensual surgeries rendering the women unable to bear children.

On September 14, 2020, Project South, together with Georgia Detention Watch, Georgia Latino Alliance for Human Rights, and South Georgia Immigrant Support Network, submitted a public complaint to the DHS Inspector General, the DHS Office of Civil Rights and Civil Liberties, the Acting Director of the Atlanta ICE Field Office, and the Warden of ICDC on behalf of detained immigrants and a former nurse at ICDC detailing the gross disregard for the health and medical well-being of immigrants detained at ICDC. ICDC is owned and operated by LaSalle Corrections, Inc., a for-profit private prison corporation with a history of medical neglect, abuse and mismanagement.¹ ICE contracts with LaSalle Corrections, Inc. for the detention of immigrants at ICDC and at facilities across the Southeast, despite years of public and well-documented reports of abuse and medical neglect at their facilities. The Project South complaint – based on accounts from whistleblower and human rights defender Nurse Dawn Wooten, a licensed nurse employed at ICDC by LaSalle

¹ See, e.g., Tanya Eiserer, *Jailed to death: False paperwork, deaths widespread in N. Texas for-profit's jails*, WFAA (June 29, 2020, 4:42 PM), <https://www.wfaa.com/article/news/local/investigates/jailed-to-death-false-paperwork-deaths-widespread-in-n-texas-for-profits-jails/287-610400876> (quoting Lance Lowry, expert on the Texas prison industry and former president of the Texas Correctional Employees union: “This is a company that puts profit over human lives.”); Aimee Ortiz, *For-Profit Jail is Accused of Abuse After Death of Woman with H.I.V.*, N. Y. TIMES (Sept. 17, 2020), <https://www.nytimes.com/2020/09/17/us/lasalle-corrections-inmate-death.html>. Just one week after Project South filed its complaint with DHS Office of Inspector General, the U.S. House Committee on Homeland Security issued a report, in which it specifically noted the ongoing abuses committed at facilities owned and operated by LaSalle Corrections, Inc. U.S. House of Representatives, Comm. on Homeland Sec., *ICE Detention Facilities: Failing to Meet Basic Standards of Care* 11 (Sept. 21, 2020), <https://homeland.house.gov/imo/media/doc/Homeland%20ICE%20facility%20staff%20report.pdf>.

Corrections, Inc., substantiated by accounts from immigrants detained at ICDC – details the harmful and unsanitary conditions at ICDC, and the facility’s total disregard for the grave risks arising from the COVID-19 pandemic, the lack of protective measures aimed at guarding against those risks, the unsanitary conditions to which persons detained at ICDC are subjected, and the lack of meaningful care for those who become sick.² In April 2020, many of the women detained at ICDC bravely recorded a video pleading with ICE and the outside community to help, fearful of the retaliation to come for speaking out about their rights. The voices of these human rights defenders can be heard [here](#). As noted in the September 14, 2020 complaint, the women’s fears of retaliation were well-founded, as officials at ICDC persisted in its use of solitary confinement to punish those who assert their rights.

The complaint also includes credible and substantiated allegations of non-consensual sterilizations and other gynecological procedures carried out against immigrant women at ICDC. Subsequent reports reveal a history of unnecessary gynecological procedures carried out by the physician contracted by LaSalle to provide gynecological care to the women at ICDC. This communication details the reports of non-consensual sterilizations and other forms of medical neglect and abuse committed against the women detained at ICDC, and the ways in which the United States has failed to respect principles set forth in Arts. 6 and 16 of the Universal Declaration on Human Rights, and has violated obligations under international human rights treaty law including: Articles 1, 2, 7, 9, 17 and 23 of the ICCPR; Article 1 of the CAT, Articles 1, 5(b), and 5(e)(iv) of the CERD; and Articles 1, 2, 6, 7, and 11 of the American Declaration on the Rights and Duties of Man. While this communication is focused on the non-consensual and unnecessary sterilizations and other invasive gynecological procedures, those egregious rights violations must be understood in the context of the full scope of violations committed against the women at ICDC, and against immigrants detained at public and private detention centers across the United States.

In May 2018, Project South, with support from the Transnational Legal Clinic at the University of Pennsylvania School of Law, submitted a [Communication](#) to several of the UN Special Procedures addressed herein, calling for attention to the pervasive and, in some cases, deadly, rights abuses at both ICDC and the Stewart Detention Center. Eleven (11) of the UN Special Procedures sent a Communication to the [United States government](#), as well as to [LaSalle Corrections, Inc.](#) and CoreCivic, Inc., which owns and operates the Stewart Detention Center. To our knowledge, the United States government has not responded, nor have LaSalle Corrections, Inc. or CoreCivic, Inc. The [May 2018 communication](#) set forth numerous abuses committed at both the Stewart and Irwin detention centers, including: the rampant use of solitary confinement as a form of punishment and control in violation of the immigrants’ rights to security of person; forced labor and exploitation of immigrant labor in violation of contemporary human rights norms against all forms of slavery; alarmingly inadequate, neglectful, and negligent medical care, as well as the provision of unsanitary food and water, in violation of the right to health; a disregard for immigrants’ cultural and religious beliefs and race-based discrimination; denial of due process; and interference in right to family life. In the years since, Project South has repeatedly sought the U.S. government’s and the international community’s attention to the ongoing rights violations and resulting deaths of immigrants held at the

² Project South Complaint on the Lack of Medical Care, Unsafe Work Practices, and Absence of Adequate Protection Against COVID-19 for Detained Immigrants and Employees Alike at the Irwin County Detention Center, Project South (Sep. 14, 2020), <https://projectsouth.org/wp-content/uploads/2020/09/OIG-ICDC-Complaint-1.pdf> [hereinafter Project South Complaint].

Stewart Detention Center, alongside the increasingly deplorable and abusive conditions at ICDC.³ Those rights violations persist, and are part of a culture of abuse and impunity that pervades the system of immigrant detention, whereby egregious violations such as forced sterilizations are allowed to occur.

We respectfully call on you to issue a statement of urgent concern that reaffirms the rights of detained immigrant women to have their fundamental rights respected and protected, and call for a full and comprehensive investigation into reports of abuse. Such an investigation must: protect the rights to privacy, due process, basic dignity and health, including sexual and reproductive health, for all women who may have been subjected to the abuses set forth herein; protect those detained at ICDC from retaliation; ensure full and equal access to remedies that are driven by the needs and interests of the women whose rights have been violated; and, recognize the persistent medical neglect and rights abuses experienced by women at the hands of ICDC and ICE officials. Finally, we call on you to: recognize the breadth and depth of rights abuses violations that are endemic to the system of immigrant detention; in recognition of international law's prohibition on civil immigration detention except as a matter of last resort, call for an end to immigrant detention and an end to the profiteering of private prison corporations in the detention of immigrants.

I. BACKGROUND AND CONTEXT

a. Immigrant Detention in the United States: A History of Abuse

The United States' detention of immigrants has received international condemnation – both for the widespread use of detention for civil matters, and for the abuses of fundamental rights committed against those detained, abuses that persist to the present day.⁴ The alleged forced sterilizations of detained immigrant women are thus consistent with a long history of human rights violations committed by U.S. immigration detention officials, beginning in its modern form under

³ E.g., Submission from Project South, University of Pennsylvania Law School Transnational Legal Clinic, and Detention Watch to the UN Working Group on the Use of Mercenaries, Addressing the Role of Private Military and Security Companies in Immigrant Detention and the Impact on the Protection of the Rights of All Migrants (May 21, 2020), <https://www.ohchr.org/Documents/Issues/Mercenaries/WG/ImmigrationAndBorder/dwn-projectsouth-pennlaw-submission.pdf>; Letter from Project South to Georgia Delegation to the 116th United States Congress, Requesting the Immediate Release of Immigrants in ICE Custody in Georgia (Mar. 31, 2020), <https://projectsouth.org/wp-content/uploads/2020/04/Congressional-Letter-Requesting-the-Immediate-Release-of-Immigrants-in-ICE-custody-in-Georgia.pdf>; Letter from Project South to Members of the U.S. Commission on Civil Rights (May 13, 2019), <https://projectsouth.org/wp-content/uploads/2019/05/Comment-to-U.S.-Commision-on-Civil-Rights-Georgia-Detention-Centers.pdf>.

⁴ See, e.g., UN Human Rights Committee, *Concluding observations on the fourth periodic report of the United States of America*, 7, U.N. Doc. No. CCPR/C/USA/CO/4 (Apr. 23, 2014), <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPrICAqhKb7yhsijKy20sgGcLSyqccX0g1nnMFNOUQBx7X%2BI55yhIwkdK6CF0OAdiqu2L8SNxDB4%2BVRPkf5gZFbTQO3y9dLrUeUaTbS0RrNO7VHzbyxGDJ%2F>; UN Human Rights Council, *Report of the Working Group on Arbitrary Detention on its visit to the United States of America*, 6-11, U.N. Doc. No. A/HRC/36/37/Add.2 (July 17, 2017); *UN rights chief 'appalled' by US border detention conditions, says holding migrant children may violate international law*. UN NEWS (July 8, 2019), <https://news.un.org/en/story/2019/07/1041991>; Inter-Am. Comm'n on Human Rights, *IACHR Visits U.S. Immigration Detention Facilities*, Press Release No. 53/09 (July 28, 2009), <http://www.cidh.org/Comunicados/English/2009/53-09eng.htm> (describing visits to five detention centers in Texas and Arizona and finding that detained immigrants were “held in unacceptable conditions, and [that] the right of these persons to due process remains, in many cases, compromised”).

President Reagan.⁵ At ICDC, immigrants are provided grossly inferior medical care, squalid living conditions, and inadequate access to legal resources. The practices at these detention centers are shameful in and of themselves, but they also violate U.S. obligations under international law.⁶

The Reagan-era detention centers were fraught with human rights abuses that have continued until the present. Without adequate facilities, many detained immigrants slept in mosquito- and snake-infested rooms and were fed spoiled food.⁷ Rape, sexual abuse, arbitrary strip searches and moldy food were common complaints all through the 1980s, 1990s and into the 21st century.⁸ In 2014, after a large number of unaccompanied immigrant children reached the southern border, a complaint was submitted to DHS about the abuses suffered by 116 of these children.⁹ According to the complaint, one quarter reported being physically beaten or sexually assaulted by Border Patrol agents, more than half reported death threats and denial of necessary medical care, and 80 percent reported inadequate food and water.¹⁰

An investigation by USA Today found rampant abuse in immigration detention facilities.¹¹ From 2015 to 2019, there were 15,821 violations of detention standards.¹² Yet 90 percent of the facilities received passing marks from government inspectors.¹³ The problems documented ranged from moldy food and squalid bathrooms to sexual assault, beatings, and attempted suicides.¹⁴

Racial discrimination and bias permeate the system of immigration detention, decisions about who is detained, how detained immigrants are treated, and whether they are granted immigration relief. Immigrants in removal proceedings from Africa and Latin America are detained at higher rates than immigrants from Asia and Europe.¹⁵ Migrants from Africa and the Caribbean are six times more likely to be held in solitary confinement than other detained immigrants.¹⁶ Detained immigrants are less likely to secure legal representation – one study found that just 14 percent of detained immigrants acquired counsel, compared to two thirds of non-detained immigrants.¹⁷ Being released from detention and securing legal representation dramatically improve an immigrant's chances of winning

⁵ Philip L. Torrey, *Rethinking Immigration's Mandatory Detention Regime: Politics, Profit, and the Meaning of "Custody,"* 48 U. MICH. J. L. REFORM 879, 890 (2015), <https://repository.law.umich.edu/mjlr/vol48/iss4/1>.

⁶ See *supra* text accompanying note 4.

⁷ Smita Ghosh, *How Migrant Detention Became American Policy*, WASH. POST (Jul. 19, 2019, 5:00 AM) <https://www.washingtonpost.com/outlook/2019/07/19/how-migrant-detention-became-american-policy/>.

⁸ *No Refuge Here: A First Look at Sexual Abuse in Immigration Detention*, Stop Prisoner Rape, 4-102 (2004.), http://www.ncdsv.org/images/JD_NoRefugeHere_2004.pdf.

⁹ Letter from Nat'l Immigrant Just. Ctr. et al., to DHS CRCL & DHS OIG on Systemic Abuse of Unaccompanied Immigrant Children by U.S. Customs and Border Protection (June 11, 2014), <https://cbpabusestest2.files.wordpress.com/2015/03/2014-06-11-dhs-complaint-re-cbp-abuse-of-uics.pdf>.

¹⁰ *Id.*

¹¹ Monsey Alvarado et al., *Deaths in custody. Sexual violence. Hunger strikes. What we uncovered inside ICE facilities across the US*, USA TODAY (Dec. 22, 2019, 4:13 PM), <https://www.usatoday.com/in-depth/news/nation/2019/12/19/ice-asylum-under-trump-exclusive-look-us-immigration-detention/4381404002/>.

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ NYU Immigrant Rights Clinic and Black Alliance for Just Immigration, *The State of Black Immigrants* 25 (Jan. 22, 2020), <http://baji.org/wp-content/uploads/2020/03/sobi-fullreport-jan22.pdf>.

¹⁶ Konrad Franco, Caitlin Patler & Keramet Reiter, *Punishing Status and the Punishment Status Quo: Solitary Confinement in U.S. Immigration Prisons, 2013-2017* (Aug. 12, 2020), <https://doi.org/10.31235/osf.io/zdy7f>.

¹⁷ Ingrid Eagly & Steven Shafer, *Access to Counsel in Immigration Court*, AMERICAN IMMIGRATION COUNCIL (Sept. 28, 2016), <https://www.americanimmigrationcouncil.org/research/access-counsel-immigration-court>.

relief.¹⁸ One study found that just two percent of unrepresented detained immigrants won relief, compared to 21 percent of represented detained immigrants.¹⁹ However, for released immigrants, seven percent won relief when unrepresented, while 39 percent did so when represented.²⁰ Thus, release from detention more than triples an immigrant's likelihood of winning relief, while release and representation lead to a twenty-fold increase likelihood of winning relief. With some of the highest rates of detention and lowest rates of representation, immigrants from Mexico and the Northern Triangle countries are among those most likely to be denied relief – one recent study found asylum denial rates of 90 percent, 83 percent, 77 percent, and 80 percent for immigrants from Mexico, El Salvador, Guatemala and Honduras, respectively.²¹

Despite international condemnation, the United States is expanding its use of immigration detention. In April 2019, there were nearly 50,000 people held in detention facilities – double the number from March 2015.²² This increase has been fueled by the Trump administration's expanded detention of migrants with no criminal record.²³ About 43 percent of detained immigrants in 2018 were Mexican nationals, while 46 percent were from the Northern Triangle countries of El Salvador, Guatemala, and Honduras.²⁴

Immigration detention in the U.S. is run predominantly by private, for-profit corporations. While only about nine percent of the total prison population is incarcerated in private facilities, by some estimates 81 percent of detained immigrants are held in private prisons,²⁵ an increase of nearly 450 percent since 2002.²⁶ While the Obama administration attempted to phase out the use of private prisons in 2016, the Trump administration, led by Attorney General Jeff Sessions, reversed this trend, allowing for expanded use of private prisons.²⁷ La Salle Corrections operates private prisons in the southeastern United States, including ICDC in Ocilla, Georgia, the site of detention for the complaints set forth herein. The history of human rights abuses committed at ICDC and other facilities owned and operated by LaSalle Corrections take place in private prisons across the country.²⁸ A federal review in 2016 found that private prisons were more dangerous for both detained immigrants and

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Continued Rise in Asylum Denial Rates: Impact of Representation and Nationality*, TRAC, SYRACUSE UNIVERSITY (Dec. 13, 2016), <https://trac.syr.edu/immigration/reports/448/>.

²² *Growth in ICE Detention Fueled by Immigrants with No Criminal Conviction*, TRAC, SYRACUSE UNIVERSITY, (Nov. 26, 2019), <https://trac.syr.edu/immigration/reports/583/>.

²³ *Id.*

²⁴ Emily Ryo & Ian Peacock, *The Landscape of Immigration Detention in the United States*, AMERICAN IMMIGRATION COUNCIL (Dec. 5, 2018), <https://www.americanimmigrationcouncil.org/research/landscape-immigration-detention-united-states>.

²⁵ Clyde Haberman, *For Private Prisons, Detaining Immigrants is Big Business*, N.Y. TIMES (Oct. 1, 2018), <https://www.nytimes.com/2018/10/01/us/prisons-immigration-detention.html>.

²⁶ *Justice-Free Zones: Immigration Detention Under the Trump Administration*, ACLU, HUMAN RIGHTS WATCH AND NATIONAL IMMIGRANT JUSTICE CENTER (2020), https://www.aclu.org/sites/default/files/field_document/justice-free_zones_immigrant_detention_report_aclu_hrw_nijc_0.pdf; *Capitalizing on Mass Incarceration: US Growth in Private Prisons*, THE SENTENCING PROJECT (Aug. 2, 2018) <https://www.sentencingproject.org/publications/capitalizing-on-mass-incarceration-u-s-growth-in-private-prisons/>.

²⁷ *Id.*

²⁸ See, e.g., Alvarado, *supra* note 11.

guards than public prisons, and that ICE received more grievances filed from private prisons than public ones.²⁹

b. History of Medical Neglect and Retaliation at ICDC and Similarly Situated Facilities

Human rights abuses have been rampant at ICDC, and many other detention centers nationwide. Solitary confinement, for example, is the default for detained immigrants who seek mental health counseling. Contrary to ICE Performance Based National Detention Standards (PBNDS), detention center officials routinely hold immigrants in solitary confinement without proper hearings and without seeking alternatives, arbitrarily segregating anyone they deem “problematic.”³⁰ A report published by the Project on Government Oversight, an independent watchdog group, showed that the use of solitary confinement in immigration detention centers increased by nearly 400 percent in the first 15 months of the Trump administration.³¹ Holding immigrants in solitary confinement without proper hearings and an exploration of alternative measures is a violation not only of international law, but of ICE’s own PBNDS,³² yet the practice persists.

Immigrants at ICDC are forced to eat food of inferior quality. Meat is reported to be undercooked, rancid, or otherwise inedible.³³ Immigrants have filed complaints about all manner of foreign objects in their food, including hair, plastic, nails, rocks, teeth, maggots, cockroaches and mice.³⁴

The ICE PBNDS require access to medical care for all detained immigrants, including “screening, prevention, health education, diagnosis and treatment.”³⁵ Yet medical units are routinely understaffed, so requests to see medical staff often go unanswered for days or weeks and their conditions are frequently misdiagnosed or ignored.³⁶ Immigrants have been denied insulin to manage diabetes.³⁷ Those who insist on additional care may be placed in solitary confinement.³⁸ ICDC staff have shredded medical request forms from detained immigrants, fabricated detained immigrants’ medical records, taunted detained immigrants for not speaking English, accused detained immigrants of exaggerating their pain, failed to disinfect the medical unit and allowed it to become infested with

²⁹ *Id.*; see also Ryo & Peacock, *supra* note 24.

³⁰ *Id.*; Project South & Penn State Law Center for Immigrants’ Rights Clinic, *Imprisoned Justice: Inside Two Georgia Immigrant Detention Centers* 36, 49 (May 2017), https://projectsouth.org/wp-content/uploads/2017/06/Imprisoned_Justice_Report-1.pdf [hereinafter Project South *Imprisoned Justice*].

³¹ Spencer Woodman & Maryam Saleh, *40 Percent of Ice Detainees Held in Solitary Confinement Have a Mental Illness, New Report Finds*, THE INTERCEPT (Aug. 14, 2019, 7:30 AM), <https://theintercept.com/2019/08/14/ice-solitary-confinement-mental-illness/>.

³² International Covenant on Civil and Political Rights arts. 2(1), 6(1), Dec. 16, 1966, 999 U.N.T.S. 171, S. Exec. Doc. No. E, 95-2 [hereinafter ICCPR]. U.S. Immigration and Customs Enforcement, *Performance-Based National Detention Standards 2011* § 2.12(V)(B) (rev. 2016) <https://www.ice.gov/doclib/detention-standards/2011/pbnds2011r2016.pdf> [hereinafter *ICE Det. Stds.*].

³³ Project South *Imprisoned Justice*, *supra* note 30, at 31.

³⁴ *Id.* at 31, 44.

³⁵ ICE Det. Stds., *supra*, note 32, at §4.3(II)(1).

³⁶ Project South *Imprisoned Justice*, *supra* note 30, at 35, 48.

³⁷ Azadeh Shahshahani, *On this Human Rights Day: Act on the Cries of Detained Immigrants for Dignity and Justice*, THE JURIST (Dec. 10, 2017, 7:42 PM), <https://www.jurist.org/commentary/2017/12/Morgan-Peng-Shahshahani-human-rights-day/>.

³⁸ Project South *Imprisoned Justice*, *supra* note 30, at 48.

insects, retaliated against staff who adhered to public health protocols, and performed nonconsensual gynecological procedures on immigrants.³⁹

Furthermore, detention center staff have refused to admit interpreters and maintain inadequate legal resources for detained immigrants.⁴⁰ Some immigrants have also reported being told to sign forms they did not understand that relinquished their legal rights.⁴¹ A lack of interpreter services at ICDC is consistent with the complaints set forth herein, alleging that gynecological procedures were performed without informed consent and without any explanation following the procedures provided in a language the women could understand, leaving many confused as to what actually happened and why.⁴²

The situation at ICDC, and at immigrant detention centers across the country, has worsened since the onset of the COVID-19 pandemic. Detained immigrants are routinely denied personal protective equipment, regular access to soap and water, and adequate space for physical distancing.⁴³ There is insufficient testing and detention centers remain crowded.⁴⁴ By May 2020, there were over 1,000 confirmed COVID-19 cases at detention centers nationwide.⁴⁵ In response to detained immigrants' requests for protection and medical care in light of the pandemic, officials at the neighboring Stewart Detention Center and other facilities nationwide have reportedly used physical force against immigrants.⁴⁶ These findings from May 2020 are consistent with the allegations listed in the complaint herein.⁴⁷

c. U.S. History of Interfering with and Denying Women's Right to Bodily Integrity, Reproductive Health, and Reproductive Freedom

The reports of coercive sterilizations at ICDC are consistent with a long history in the United States of state-sanctioned violations of the reproductive autonomy and bodily integrity of people in marginalized communities.⁴⁸ In Puerto Rico, about one third of the island's female population was sterilized between the 1930s and 1970s.⁴⁹ Puerto Rican women were subjected to trials of new birth control pills, local eugenic sterilization laws, and U.S. policy encouraging sterilization on the island, which became so common that it was referred to simply as "la operación" (the operation).⁵⁰ By 1977, the island had the largest proportion of sterilized women in the world.⁵¹ California coercively

³⁹ Project South Complaint, *supra* note 2, at 15-21, 25.

⁴⁰ Project South *Imprisoned Justice*, *supra* note 30, at 30.

⁴¹ Project South *Imprisoned Justice*, *supra* note 30, at 28.

⁴² Project South Complaint, *supra* note 2, at 15-21, 25.

⁴³ José Olivares, *ICE's Immigration Detainees Protested Lack of Coronavirus Precautions – And SWAT-like Private-Prison Guards Pepper-Sprayed Them*, THE INTERCEPT (May 5, 2020, 8:00 AM), <https://theintercept.com/2020/05/05/ice-stewart-immigration-detention-coronavirus-protest-pepper-spray/>.

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ Project South Complaint, *supra* note 2, at 2-15.

⁴⁸ Lisa Ko, *Unwanted Sterilization and Eugenics Programs in the United States*, PBS (Jan. 29, 2016), <https://www.pbs.org/independentlens/blog/unwanted-sterilization-and-eugenics-programs-in-the-united-states/>.

⁴⁹ Bonnie Mass, *Puerto Rico: A Case Study of Population Control*, LATIN AM. PERSPECTIVES (1977), [10.1177/0094582X7700400405](https://www.jstor.org/stable/1532177). See also Vanessa Bauza, *Puerto Rico: The Covert Campaign to Sterilize Women*, MS (1994).

⁵⁰ *Id.*

⁵¹ *Id.*

sterilized more than 20,000 people beginning from 1909 to 1979.⁵² The practice of “Mississippi appendectomies” – unnecessary hysterectomies performed on women of color in the South as practice for medical students at teaching hospitals – was pervasive.⁵³ In *Relf v. Weinberger*, a federal district court found that between 100,000 and 150,000 low-income individuals had been sterilized annually under federally funded programs.⁵⁴ In many cases, doctors threatened to terminate welfare benefits of program participants unless they consented to sterilization.⁵⁵

The targets of sterilization have long been those deemed “undesirable,” so it is unsurprising that incarcerated and detained populations have been subject to denials of reproductive rights. The landmark U.S. Supreme Court case *Skinner v. Oklahoma* invalidated laws permitting compulsory sterilization of incarcerated individuals.⁵⁶ Yet the practice has persisted – in California, 150 imprisoned women were reportedly sterilized between 2006 and 2010.⁵⁷ This is all part of a pattern and practice of denying women of all ages their rights to bodily integrity, and the right to make their own medically-informed decisions regarding reproductive health. At the same time that doctors operating under government contracts are performing forced and non-consensual sterilizations, the government has also sought to deny women access to abortion care, even where medically indicated.⁵⁸ The Trump administration has taken aggressive action to block access to reproductive health care for detained immigrants. In 2017, the Office of Refugee Resettlement (ORR), the federal agency that has custody over unaccompanied immigrant children, instituted a policy of refusing to allow pregnant young people access to abortion care, instead coercing them to carry their pregnancies to term.⁵⁹ The ACLU sued on behalf of a class of young women seeking abortion, winning a court order enjoining the ORR policy.⁶⁰

Consistent with the complaints of forced gynecological procedures at ICDC, reproductive rights abuses, denial of prenatal care, and access to feminine hygiene products have been a regular occurrence at immigration detention centers.⁶¹ Pregnant women have been forced to deliver their babies in a holding cell, standing and wearing pants, after being refused medical attention.⁶² Other

⁵² Jeremy Rosenberg, *When California Decided Who Could Have Children and Who Could Not*, KCET (June 18, 2012), <https://www.kcet.org/history-society/when-california-decided-who-could-have-children-and-who-could-not>.

⁵³ Ko, *supra* note 48.

⁵⁴ *Relf v. Weinberger*, 372 F. Supp. 1196, 1199 (D.D.C. 1974).

⁵⁵ *Id.*

⁵⁶ *Skinner v. Oklahoma*, 316 U.S. 535 (1942).

⁵⁷ *Id.*

⁵⁸ Brigitte Amiri, *Reproductive Abuse is Rampant in the Immigration Detention System*, AM. CIV. LIBERTIES UNION (Sept. 23, 2020), <https://www.aclu.org/news/immigrants-rights/reproductive-abuse-is-rampant-in-the-immigration-detention-system/>. See also Tanya Albert Henry, *Should abortion rights extend to unaccompanied migrant minors?*, AM. MED. ASS’N (Oct. 18, 2018), <https://www.ama-assn.org/delivering-care/population-care/should-abortion-rights-extend-unaccompanied-migrant-minors>.

⁵⁹ *Id.*

⁶⁰ *Id.* The United States has recently announced a change in policy, allowing unaccompanied minors in its custody access to abortion care consistent with the governing law of the state in whose jurisdiction the minor is held, mooted the federal court litigation, Administration for Children and Families, Office of Refugee Resettlement, Policy Memorandum: Medical Services Requiring Heightened ORR Involvement (Sept. 29, 2020), https://www.acf.hhs.gov/sites/default/files/orr/garza_policy_memo.pdf.

⁶¹ National Women’s Law Center, *Immigrant Rights and Reproductive Justice; How Harsh Immigration Policies Harm Immigrant Health* 2 (Apr. 2017), <https://nwlc.org/wp-content/uploads/2017/04/Immigrant-Rights-and-Reproductive-Justice.pdf>; see also Amiri, *supra* note 58.

⁶² See Amiri, *supra* note 58.

women have been forced to give birth in shackles.⁶³ In 2018, reversing a longstanding policy, ICE ended its general presumption of release for pregnant immigrant women.⁶⁴

Pregnant women at ICDC receive no prenatal care.⁶⁵ Human rights organizations have documented cases in which delays and denials of access to prenatal and emergency care may have resulted in miscarriage.⁶⁶ All of the above serve as searing examples of the ways in which the U.S. denies women their basic rights to bodily integrity, reproductive health, and reproductive freedom.

II. REPORTS OF NON-CONSENSUAL GYNECOLOGICAL PROCEDURES INCLUDING STERILIZATIONS OF WOMEN DETAINED BY THE UNITED STATES AT THE IRWIN COUNTY DETENTION CENTER

Recent reports reveal a history of the United States' violation of detained migrant women's inalienable rights to bodily integrity; to be free from torture and other cruel, inhuman and degrading treatment; and rights to reproductive health. The Project South complaint, and subsequent reports document "rough" gynecological treatment, medically unnecessary procedures, and non-consensual sterilizations carried out against women at ICDC and the reckless indifference displayed by LaSalle Corrections and by the United States government to the health, safety, and reproductive autonomy of women subjected to their custody in immigrant detention. On September 14, 2020, Project South issued a complaint detailing concerns shared by whistleblower-nurse Dawn Wooten and individuals detained at ICDC – that migrant women were being sterilized without their consent.⁶⁷ The story began with one individual, Wendy Dowe, detained at ICDC telling Project South that the facility was sending migrant women to an outside gynecologist whom some of the women did not trust.⁶⁸ Then, another interviewee explained she had conversations with five women who underwent gynecological procedures at ICDC from October 2019 to December 2019 and reported the women "reacted confused when explaining why they had one done."⁶⁹

The woman reported that she refused medical treatment after she received three different explanations regarding what procedure she was to receive.⁷⁰ First, a doctor told her she needed to have

⁶³ *Id.*

⁶⁴ U.S. Immigration and Customs Enforcement, *FAQs: Identification and Monitoring of Pregnant Detainees* (Mar. 29, 2018), <https://www.ice.gov/faqs-identification-and-monitoring-pregnant-detainees>.

⁶⁵ Project South *Imprisoned Justice*, *supra* note 30, at 49.

⁶⁶ Ema O'Connor & Nidhi Prakash, *Pregnant Women Say They Miscarried in Immigration Detention and Didn't Get the Care They Needed*, BUZZFEED.NEWS (July 9, 2018, 2:44 pm),

<https://www.buzzfeednews.com/article/emaconnor/pregnant-migrant-women-miscarriage-cpb-ice-detention-trump>;

Administrative Complaint from Am. Civil Liberties Union et al. to DHS on Increasing Numbers of Pregnant Women Facing Harm in Detention (Sept. 26, 2017),

https://www.americanimmigrationcouncil.org/sites/default/files/general_litigation/complaint_increasing_numbers_of_pregnant_women_facing_harm_in_detention.pdf

⁶⁷ Project South Complaint, *supra* note 2, at 18-20.

⁶⁸ *Id.* at 18. See also Caitlin Dickerson, Seth Freed Wessler, & Miriam Jordan, *Immigrants Say They Were Pressured into Unneeded Surgeries*, N.Y. TIMES (Sept. 29, 2020), <https://www.nytimes.com/2020/09/29/us/ice-hysterectomies-surgeries-georgia.html>.

⁶⁹ Project South Complaint, *supra* note 2, at 18.

⁷⁰ *Id.* at 20.

an ovarian cyst removed.⁷¹ Then, an officer transporting her to the hospital said she was having a hysterectomy.⁷² In a twist of fate, the woman tested positive for COVID-19 antibodies and was transported back to ICDC.⁷³ When she was returned to ICDC, she asked the nurse there what was happening, and that nurse explained that yet a third procedure that was going to be performed and when she asked why she need the procedure, the nurse told her it was to manage her heavy bleeding.⁷⁴ The woman explained that she did not have heavy vaginal bleeding.⁷⁵ The nurse then posited that the operation was for her “thick womb.”⁷⁶ When the woman tried to refuse the procedure, the nurse became very angry and started yelling at her.⁷⁷ The entire experience left the detained migrant to surmise that ICDC staff “were trying to mess with [her] body.”⁷⁸

Ms. Wooten, the whistleblower-nurse named in the complaint, reported that she began to question what seemed like an unusually large number of hysterectomies performed on the women at ICDC, asserting that while there are sometimes medically necessary reasons to perform the procedure, “everybody’s uterus cannot be that bad.”⁷⁹ Wooten went on to describe how detained women subjected to these hysterectomies expressed confusion as to why such procedures were being performed on them in the first place: “I’ve had several inmates tell me that they’ve been to see the doctor and they’ve had hysterectomies and they don’t know why they went or why they’re going.”⁸⁰ Wooten further alleged that, in violation of ICDC protocols, nurses communicate with non-English speaking patients by Googling Spanish phrases or getting other immigrants detained at the facility to interpret, rather than using the professional translation hotline.⁸¹ As a result, it is unclear at best whether migrant women subjected to these sterilization procedures understand the full reproductive consequences of these operations. Wooten stated that in instances when the migrant women detained at ICDC did comprehend the nature of the sterilization procedure, they refused all treatment, electing instead to receive medical care in their home countries.⁸²

Wooten further noted that ICDC staff themselves see the high rates of hysterectomies as problematic, asserting that with regard to the doctor contracted by ICDC, later identified in the media as Dr. Amin: “We’ve questioned among ourselves like goodness he’s taking everybody’s stuff out... That’s his specialty, he’s the uterus collector.”⁸³

⁷¹ *Id.*

⁷² *Id.*

⁷³ *Id.*

⁷⁴ *Id.*

⁷⁵ *Id.*

⁷⁶ *Id.*

⁷⁷ *Id.*

⁷⁸ *Id.* See also “*They Wanted to Take My Womb Out*”: Survivor of Medical Abuse in ICE Jail Deported After Speaking Out, DEMOCRACY NOW! (Oct. 26, 2020),

https://www.democracynow.org/2020/10/26/ice_irwin_detention_center_invasive_surgeries (interview with Jaromy Floriano Navarro, survivor of medical abuse and neglect at the Irwin County Detention Center).

⁷⁹ *Id.* at 19.

⁸⁰ *Id.*

⁸¹ *Id.* at 19-20.

⁸² *Id.* at 19.

⁸³ *Id.*

Since the complaint became public, United States Congresswoman Pramila Jayapal stated that her office has been made aware of 17 such examples of women receiving coerced gynecological procedures at ICDC.⁸⁴ Multiple media accounts have also corroborated the allegations via reviews of detained migrants' medical records and through interviews with the women subjected to non-consensual gynecological procedures and their advocates.⁸⁵ In an interview with *The Associated Press*, Mileidy Cardentey Fernandez, a Cuban migrant detained at ICDC, revealed three small circular scars on her stomach.⁸⁶ She explained that the facility told her she needed to have an ovarian cyst removed but she remains unsure to this day about what operation she actually received.⁸⁷ "The only thing they [ICDC medical staff] told me was: 'You're going to go to sleep and when you wake up, we will have finished,'" Fernandez stated.⁸⁸ Similarly, another migrant woman was referred for surgery but did not understand why the operation was necessary. She went on to say that she heard from other women at ICDC that the gynecologist just "empties you all out."⁸⁹

Another woman's medical records showed that she was referred for a psychiatric consult after she refused a dilation and curettage, a procedure for removing uterine tissue.⁹⁰ According to a summary of the psychiatric evaluation, the woman said she was worried about the procedure when she "saw someone else after they had surgery and what [she] saw scared [her]."⁹¹ Another migrant refused to have surgery to remove an ovarian cyst and explained through tears how the doctor became angry with her and how she felt that "something strange was going on."⁹²

Pauline Binam, a Cameroonian migrant who was detained at ICDC, explained to news outlets that she went to the gynecologist when she noticed abnormalities with her period.⁹³ She agreed to have

⁸⁴ Congresswoman Jayapal Statement on New Details Regarding Forced Unnecessary Medical Procedures Performed on At Least Seventeen Immigrant Women (Sept. 16, 2020), <https://jayapal.house.gov/2020/09/16/new-details-regarding-forced-medical-procedures-on-immigrant-women/>.

⁸⁵ See, e.g., Nomaan Merchant, *More migrant women say they didn't OK surgery in detention* AP (Sept. 18, 2020), <https://apnews.com/f2008d23c5f9087f4214d9722dfb097e>; Caitlin Dickerson, *Inquiry Ordered Into Claims Immigrants Had Unwanted Gynecology Procedures*, N.Y. TIMES (Sept. 16, 2020) <https://www.nytimes.com/2020/09/16/us/ICE-hysterectomies-whistleblower-georgia.html>; Jacob Soboroff, Julia Ainsley & Daniella Silva, *Lawyers allege abuse of migrant women by gynecologist for Georgia ICE detention center*, NBC (Sept. 15, 2020), <https://www.nbcnews.com/news/latino/nurse-questions-medical-care-operations-detainees-immigration-jail-georgia-n1240110>; Molly O'Toole, *19 women allege medical abuse in Georgia immigration detention*, LA TIMES (Oct. 22, 2020) <https://www.latimes.com/politics/story/2020-10-22/women-allege-medical-abuse-georgia-immigration-detention>; John Washington & Jose Olivares, *Number of Women Alleging Misconduct by ICE Gynecologist Nearly Triples*, THE INTERCEPT (Oct. 27, 2020) <https://theintercept.com/2020/10/27/ice-irwin-women-hysterectomies-senate/> (confirming that 57 women had been subjected to forced or non-consensual gynecological procedures).

⁸⁶ Merchant, *supra* note 85.

⁸⁷ *Id.*

⁸⁸ *Id.*

⁸⁹ Jose Olivares & John Washington, *"He Just Empties You All Out": Whistleblower Reports High Number of Hysterectomies at ICE Detention Facility*, THE INTERCEPT (Sept. 15, 2020), <https://theintercept.com/2020/09/15/hysterectomies-ice-irwin-whistleblower/>.

⁹⁰ Merchant, *supra* note 85.

⁹¹ *Id.*

⁹² Olivares & Washington, *supra* note 89.

⁹³ Miranda Bryant, *Allegations of unwanted Ice hysterectomies recall grim time in US history*, THE GUARDIAN (Sept. 21, 2020, 3:00 PM) <https://www.theguardian.com/us-news/2020/sep/21/unwanted-hysterectomy-allegations-ice-georgia-immigration>.

an ovarian cyst removed via a dilation and curettage procedure, which does not entail examining a patient's fallopian tubes.⁹⁴ However, without her consent, Dr. Amin removed one of Binam's fallopian tubes claiming it was "clogged."⁹⁵ Since the non-consensual sterilization, Binam has experienced amenorrhea and mental health issues.⁹⁶ According to her attorney, when Binam first learned she would not be able to conceive children again, she was sobbing in a wheelchair "not understanding why this was happening."⁹⁷ She was subsequently scheduled for deportation after going public with her experience, though that deportation was ultimately stopped due to Congressional interventions and an emergency motion for a stay filed by her immigration attorney Vân Huynh. ICE then tried to re-arrest her following her release from detention.⁹⁸

In a similarly coercive encounter, a woman who made her medical records available to *The Associated Press* for independent verification underwent a hysterectomy after a laboratory result revealed a carcinoma.⁹⁹ According to her attorney Andrew Free, the woman felt pressured by Dr. Amin to have the surgery and was never given an opportunity to say "no" or to consult with her family.¹⁰⁰ Doctors interviewed by the publication explained there were other, less intrusive options available to treat the cancer that would not have required surgical sterilization.¹⁰¹

Benjamin Osorio, an attorney for two migrant women, told NBC News that his clients both experienced non-consensual hysterectomies while detained by the United States government.¹⁰² One woman was told she had stage 4 cervical cancer and would need a hysterectomy and chemotherapy.¹⁰³ However, after her hysterectomy, the woman saw an oncologist who told her she did not have cancer.¹⁰⁴ Similarly, Dr. Amin told another woman that she needed a hysterectomy because he found cancerous cysts.¹⁰⁵ Yet her medical records show that the doctor never performed a biopsy to confirm the cysts were cancerous.¹⁰⁶ In line with the statements made by nurse Wooten, a former ICDC employee summarized his impression of the gynecologist who performed these procedures as follows: "All I know is, if you go in for anything, the majority of the time, he's going to suggest surgery. I don't know why. I just — I don't know why. He does a lot of surgeries."¹⁰⁷

⁹⁴ Merchant, *supra* note 85.

⁹⁵ *Id.*

⁹⁶ Bryant, *supra* note 93.

⁹⁷ *Id.*

⁹⁸ TYT, *REPORT: ICE Trying To RE-ARREST Forced Sterilization Victim*, YOUTUBE (Oct. 1, 2020), https://www.youtube.com/watch?v=aBJOoHq_jDA.

⁹⁹ Merchant, *supra* note 85.

¹⁰⁰ *Id.*

¹⁰¹ *Id.*

¹⁰² Jacob Soboroff, Julia Ainsley & Daniella Silva, *Lawyers allege abuse of migrant women by gynecologist for Georgia ICE detention center*, NBC (Sept. 15, 2020, 8:02 PM), <https://www.nbcnews.com/news/latino/nurse-questions-medical-care-operations-detainees-immigration-jail-georgia-n1240110>.

¹⁰³ *Id.*

¹⁰⁴ *Id.*

¹⁰⁵ *Id.*

¹⁰⁶ *Id.*

¹⁰⁷ Olivares & Washington, *supra* note 89.

The doctor identified as being responsible for performing the non-consensual hysterectomies and sterilizations, Dr. Amin, is one already known to the United States government for performing unnecessary medical procedures. In 2015, the United States Justice Department investigated Dr. Amin and others at the Irwin County Hospital for submitting false claims to Medicaid and Medicare.¹⁰⁸ At the time, the government accused Dr. Amin of performing medically unnecessary ultrasounds and then submitting reimbursement claims to the government.¹⁰⁹ The hospital ultimately settled the case for \$520,000.¹¹⁰

Moreover, Elizabeth Matherne, an attorney who represented migrants detained at ICDC, had conversations *two to three years ago* with ICDC management about Dr. Amin’s “rough treatment” of female patients.¹¹¹ “I was so disturbed. I begged her to get my client treatment with a different doctor. I told her I had heard from multiple people that he was rough, that they were scared to go to him, that they didn’t understand what he was doing,” Matherne told NBC News.¹¹² Another lawyer, Erin Argueta, from the Southern Poverty Law Center, filed a complaint with the Warden at Irwin seeking medical care for a client, Ms. Gonzalez Hidalgo, who had undergone what was described a “painful and traumatic” experience at the hands of Dr. Amin. The complaint also noted several verbal complaints that had been previously filed with the inmates’ services director at ICDC.¹¹³

In one particularly egregious case, Matherne’s client, Nancy Gonzalez Hidalgo, reported that Dr. Amin “hurt” her during past gynecological exams and never used available interpretation services to explain what he was doing or to obtain her consent for his intervention.¹¹⁴ Eventually, despite excruciating pain from an undiagnosed uterine infection, Hidalgo refused to see the gynecologist who kept violating her.¹¹⁵ She begged the Board of Immigration Appeals to deport her back to Mexico so that she could be free of ICDC and the waking nightmare of migrant detention in the United States.¹¹⁶ “The reason I am sending this letter is because I find myself in a desperate situation...Staying in this country is not something I wish to do...I beg of you to have compassion and consideration for me, I have a serious medical condition...I renounce every and any right so that I can obtain my deportation,” Hidalgo wrote.¹¹⁷

As these accounts illustrate, officials at LaSalle Corrections who operate ICDC and the U.S. government have been on notice for years about the deplorable treatment migrants encounter while detained at ICDC, that has particularly affected women’s bodily integrity and reproductive health and autonomy. Nevertheless, the U.S. government continued its contract with LaSalle, which persisted in

¹⁰⁸ Natalie Andrews & Michelle Hackman, *U.S. Opens Investigation Into Claims of Forced Hysterectomies on Detained Migrants*, WALL ST. J. (Sept. 16, 2020), <https://www.wsj.com/articles/lawmakers-look-for-investigation-into-allegations-of-mass-hysterectomies-on-detained-migrants-11600291610>.

¹⁰⁹ Olivares & Washington, *supra* note 89.

¹¹⁰ Andrews & Hackman, *supra* note 108.

¹¹¹ Soboroff, Ainsley & Silva, *supra* note 85.

¹¹² *Id.*

¹¹³ Dickerson, Wessler, & Jordan, *supra* note 68.

¹¹⁴ Dickerson, *supra* note 85.

¹¹⁵ *Id.*

¹¹⁶ Liz Vinson, *Trapped with No End in Sight: A Detained Mother’s Struggle to Get Home*, SOUTHERN POVERTY LAW CENTER (Feb. 8, 2019), <https://www.splcenter.org/attention-on-detention/trapped-no-end-sight-detained-mother%E2%80%99s-struggle-get-home>.

¹¹⁷ *Id.*

sending women under its custody to Dr. Amin, who repeatedly and with impunity, subjected migrant women to “rough”¹¹⁸ gynecological examinations without their knowledge or informed consent. Interpretation services at ICDC are underutilized at best and non-existent at worst. Pain and humiliation are a routine part of gynecological “care” for women detained at ICDC, as it is for women in ICE’s custody across the United States.¹¹⁹ Recent reports have documented at least 57 women at ICDC treated by Dr. Amin, at least 17 of whom were still detained at ICDC as of October 25, 2020.¹²⁰ And the women ICDC officials sent to Dr. Amin for gynecological care, who were then subjected to unnecessary and non-consensual sterilizations, are left with a lifetime of irreparable harm.

How do you capture in words the painful indignity of having your ability to conceive a child forcibly taken from you? It is an impossible task, but one woman interviewed by Project South came close: “*I thought this was like an experimental concentration camp.*”¹²¹

III. THE UNITED STATES MUST UPHOLD ITS OBLIGATION TO RESPECT AND ENSURE THE FUNDAMENTAL HUMAN RIGHTS OF IMMIGRANT WOMEN IN ITS CUSTODY

a. Alleged Acts of Medical Neglect and Non-Consensual Sterilizations Constitute Clear Violations of U.S. Obligations under International Law

The Universal Declaration of Human Rights (UDHR) sets forth: “All human beings are born free and equal in dignity and rights.” The United States, through its detention policies and practices that have given rise to the rights abuses set forth above, has sought to deny the women detained at ICDC recognition of their dignity, rights, reason, and conscience, rights owed to them no less than they are owed to every other human being. Specifically, the United States has failed to uphold and respect the women’s rights under articles 1, 2, 3, and 25 of the UDHR, articles 2, 3, 7, 9, and 17 of the ICCPR, art. 5 of the ICERD, and art. 16 of CAT.

The medical neglect, unsanitary conditions, and failure to take adequate protective measures in light of the COVID-19 pandemic to which the women of ICDC have been subjected all act in violation of the United States’ obligations to ensure the rights to security in person, guaranteed under art. 3 of the UDHR, and art. 9 of the ICCPR. Article 9 of the ICCPR guarantees every person “the right to liberty and security of person,” of which no person can be deprived “except on such grounds and in accordance with such procedure as are established by law.”¹²² If an individual is deprived of their rights to liberty, that person must still “be treated with humanity and with respect for the inherent dignity of the human person.”¹²³

¹¹⁸ Dickerson, *supra* note 85.

¹¹⁹ See, e.g., *Systemic Indifference: Dangerous and Substandard Medical Care in U.S. Immigration Detention*, Human Rights Watch (2017), https://static1.squarespace.com/static/5a33042eb078691c386e7bce/t/5a9da33f0d9297a1f84f60f2/1520280385430/HRW_Report.pdf.

¹²⁰ Washington & Olivares, *supra* note 85.

¹²¹ Project South Complaint, *supra* note 2, at 19.

¹²² ICCPR, *supra* note 32.

¹²³ *Id.* at art. 10.

The treatment of women and girls during the COVID-19 pandemic has already been widely commented on by multiple international and regional bodies. The UN Working Group on discrimination against women and girls has warned that “different forms of systemic discrimination already faced by women and girls will be exacerbated” as a result of COVID-19 and, in particular, has noted the threat posed by the pandemic to access to medical services.¹²⁴ The UN Subcommittee on Prevention of Torture has issued detailed advice on a range of actions governments and independent monitoring bodies should take to protect people deprived of their liberty during the COVID-19 pandemic.¹²⁵ Similarly, the UN human rights treaty bodies have “urged global leaders to ensure that human rights are respected in government measures to tackle the public health threat posed by the COVID-19 pandemic.”¹²⁶ And in May 2020, UN Human Rights Experts representing multiple Special Procedures issued a statement specific to the United States urging an immediate reduction in prison populations to prevent the spread of COVID-19.¹²⁷ With regard to migrants, the experts wrote: “The authorities must urgently use readily available alternatives to detention for migrants held in overcrowded and unsanitary administrative centres to counter the risk of a COVID-19 outbreak,” while also urging the United States to suspend immigration raids, deportations, and other forms of involuntary return.¹²⁸ This call has been reiterated by public health experts in the United States.¹²⁹ Unfortunately, none of this has been heeded by the United States, as evident by the situation in ICDC.

¹²⁴ Press Release, UN Working Group on discrimination against women and girls, Responses to the COVID-19 pandemic must not discount women and girls (April, 20 2020),

<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25808&LangID=E>.

¹²⁵ Press Release, UN Subcommittee on Prevention of Torture, COVID-19: Measures needed to protect people deprived of liberty, UN torture prevention body says (Mar. 30, 2020),

<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25756>.

¹²⁶ Press Release, UN Human Rights Office of High Commissioner, UN Human Rights Treaty Bodies call for human rights approach in fighting COVID-19 (Mar. 24th, 2020),

<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25742&LangID=E>.

¹²⁷ Press Release, UN Human Rights Office of the High Commissioner, US Government urged to do more to prevent major outbreaks of COVID-19 in detention centres – UN experts (May 29, 2020),

<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25912&LangID=E>.

¹²⁸ *Id.* The UN Special Rapporteur on the human rights of migrants, together with five other mandate holders with overlapping mandates, issued a Communication to the United States specific to information received as to the Northwest Processing Center in Tacoma, Washington. In that Communication, the Rapporteurs began by noting: “We have repeatedly highlighted our concerns regarding the human rights of migrants in the U.S., notably in connection with widespread use of immigration detention (USA 23/2017, USA 12/2018), alleged human rights abuses in privately-run immigration detention facilities (USA 18/2018), and lack of access to health care in Immigration and Customs Enforcement (ICE) custody (USA 25/2018 and USA 7/2019).” They went on to state: “We would like to express our utmost concern about the physical and mental integrity of migrants detained in the NWPC and in other similar facilities, notably in light of the existing risk of an outbreak of COVID-19 in such facilities. We are particularly concerned about the unhygienic conditions, coupled with the overcrowding that does not allow detainees to observe physical distancing, the lack of protective items allocated to detainees including those completing cleaning tasks, and the lack of access to adequate healthcare. We are additionally concerned about the impact of the restriction of receiving visits from legal counsel and family members, notably on due process rights and on the mental integrity of the detainees.” USA 7/2020 (Apr. 22, 2020),

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25190>. The situation reported from the NWPC with regard to overcrowding, lack of sanitation, lack of access to adequate healthcare, lack of protective items, as well as access concerns arising from the COVID-19 pandemic, are similar to those reported from ICDC, detailed herein.

¹²⁹ *Public Health Experts, Medical Doctors, Prison Experts, and Former ICE Officials Urge Releases from Immigration Detention to Control the Spread of COVID-19*, PHYSICIANS FOR HUMAN RIGHTS AND HUMAN RIGHTS FIRST (April 2020), <https://www.humanrightsfirst.org/sites/default/files/ExpertsUrgeReleaseICEDetaineesCOVID19.pdf>.

As set forth in detail above, the United States has systematically denied the women at ICDC these most fundamental of rights. The unsanitary living conditions, the refusal to accommodate religious dietary restrictions, the inedible food provided, the failure to ensure adequate interpretation, the retaliatory actions taken against women who question their treatment and assert their rights, and the overall contempt with which the women are treated, all evidence a denial of the women's inherent human rights and blatant disregard for their right to be treated with dignity. The situation taking place in ICDC is consistent with findings of the Working Group on Discrimination against women and girls who expressed in its report on the mission to the United States concern that migrant women in detention centers are subjected to conditions that "do not comply with federal mandates and agency policies."¹³⁰

Furthermore, the detailed accountings of medical neglect and negligence by the medical staff at ICDC, including the shredding of medical requests, the denial of access to basic medical care, and the complete and total disregard for and lack of protective measures to guard against the grave health risks associated with the COVID-19 pandemic, also violate women's rights to the highest attainable standard of health and safety. The United States is obligated to ensure that all persons under its jurisdiction, without discrimination, are provided the medical care and related treatment necessary to the attainment, preservation, and enjoyment of their health, including sexual and reproductive health.¹³¹ The United States is also obligated to take appropriate measures to address the general conditions in society that may give rise to direct threats to life or prevent individuals from enjoying their right to life with dignity, including dangers posed by the prevalence of widespread diseases like COVID-19 and denial of full and equal access to reproductive healthcare.¹³² While the United States has not ratified the Covenant on Economic, Social and Cultural Rights, interpretations of the right to the enjoyment of the highest attainable standard of physical and mental health set forth in art. 12 therein is instructive in this context. The CESCR has recognized coercive or forced medical interventions and the failure of a State to take effective steps to prevent third parties from undermining a woman's sexual and reproductive health as direct violations of ICESCR, art. 12.¹³³

The non-consensual sterilizations and medically-unnecessary gynecological procedures to which the women detained at ICDC have been subjected violate migrant women's right to non-discrimination and equality set forth in Article 1 and 2 of the UDHR and Articles 2 and 3 of the ICCPR and Article 5 of the CERD which guarantees the right of equality before the law to every person, "without distinction as to race, colour, or national or ethnic origin," including the right to "State protection against violence or bodily harm."¹³⁴ CERD also protects against gender oriented racial discrimination, particularly in the context of forced sterilizations.¹³⁵ Consequently, women detained at ICDC are equally as entitled to

¹³⁰ Report of the Working Group on the issue of discrimination against women and girls on its mission to the United States of America, ¶ 80, U.N. Doc. A/HRC/32/44/Add.2. [hereinafter WGDAGW mission report to the US].

¹³¹ ICERD art. 5(e)(iv), Dec. 21, 1965, 660 U.N.T.S. 195; Inter-Am, Comm'n on Human Rights (IACHR), American Declaration of the Rights and Duties of Man art. XI (May 2, 1948) ("Every person has the right to the preservation of his health through sanitary and social measures relating to food, clothing, housing and medical care, to the extent permitted by public and community resources.").

¹³² UN Human Rights Committee, General comment no. 36, Article 6 (Right to Life), ¶ 8026, CCPR/C/GC/35 (Sept. 3, 2019).

¹³³ UN Committee on Economic, Social and Cultural Rights, General comment No. 22 (2016) on the right to sexual and reproductive health (article 12 of the International Covenant on Economic, Social and Cultural Rights), ¶¶ 57,59, E/C.12/GC/22 (May 2, 2016).

¹³⁴ ICERD art. 5, Dec. 21, 1965, 660 U.N.T.S. 195.

¹³⁵ Office of the High Commissioner for Human Rights, General Recommendation No. 25: Gender related dimensions of racial discrimination, ¶ 2, A/55/18 (Mar. 2, 2000).

protection of their bodily integrity as are all other women, men, and children inside or outside of detention in the United States. Despite this fact, the allegations contained in Project South's September 14, 2020 report indicate that ICDC has used its considerable power to subject immigrant women to bodily, psychological, and emotional harm—harm that if inflicted instead upon a population not detained specifically due to national origin would be immediately recognized by the State as unjust and in contravention to international law. For these reasons, the U.S. has failed to uphold its duty to provide equal protection to immigrant women in its custody, and it must acknowledge and redress this grave injustice.

The rights to equality and non-discrimination are indivisible from and interdependent with other human rights, including the right to reproductive health. When women's rights to equality and non-discrimination are not fulfilled, their access to reproductive health services is limited, including their ability to make meaningful and informed choices about their reproductive lives without coercion. The Working Group on Discrimination against Women and Girls highlighted in the report on its mission to the United States that immigrant women are discriminated against in their access to appropriate healthcare services,¹³⁶ and that immigrant women are in a situation of heightened vulnerability,¹³⁷ in particular those who are deprived of liberty.¹³⁸ The Working Group also found that throughout the years, women in the United States have seen their rights to sexual and reproductive health significantly eroded¹³⁹ and that immigrant women face severe barriers in accessing sexual and reproductive health.¹⁴⁰

According to international human rights standards, including the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), which the United States has signed but not ratified, States must take all appropriate measures to ensure women's equal right to decide freely and responsibly on the number and spacing of their children.¹⁴¹ Article 17 of the ICCPR indicates that, "No one shall be subjected to arbitrary or unlawful interference with his privacy" and that, "everyone has the right to the protection of the law against such interference or attacks."¹⁴² Moreover, forced sterilization has been interpreted to be a direct violation of Articles 17 and 7.¹⁴³ States must ensure access to accurate medical information about their health, consequences of treatment and available options, and guarantee conditions where women can make their own reproductive choices without interference. For this reason, women's empowerment is intrinsically linked to their ability to control their reproductive lives.¹⁴⁴ The evidence shows that immigrant women at ICDC have been deprived of their right to privacy and autonomous decision-making capacity.

Article 7 of the ICCPR and Article 16 of CAT prohibit torture, cruel, inhuman, or degrading treatment or punishment.¹⁴⁵ These rights are non-derogable, and therefore cannot be displaced or

¹³⁶ WGDAGW mission report to the US, *supra* note 129, at ¶¶ 62, 80.

¹³⁷ *Id.* at ¶ 87.

¹³⁸ *Id.* at ¶ 80; UN Human Rights Committee, Women deprived of liberty –Report of the Working Group on the issue of discrimination against women in law and in practice, ¶¶ 13, 59, U.N. Doc. A/HRC/41/3 (May 5, 2019).

¹³⁹ WGDAGW mission report to the US, *supra* note 129, at ¶ 28.

¹⁴⁰ *Id.* at ¶. 68.

¹⁴¹ *Id.* at ¶. 65; CEDAW, Dec. 18, 1979, 1249 U.N.T.S. 13.

¹⁴² ICCPR, *supra* note 32, at art. 17.

¹⁴³ Center for Reproductive Rights, *Reproductive Rights Violations as Torture and Cruel, Inhuman, or Degrading Treatment or Punishment: A Critical Human Rights Analysis* 18-19 (2010).

¹⁴⁴ WGDAGW mission report to the US, *supra* note 129.

¹⁴⁵ ICCPR, *supra* note 32, at art. 7; Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Dec. 10, 1984, 2481 U.N.T.S. 1513 [hereinafter CAT].

derogated from at any time by any other law.¹⁴⁶ The non-consensual sterilizations and other gynecological procedures rendering the women unable to bear children, as described before, may amount to torture, cruel and inhumane treatment, and violate a woman's right to privacy and to family-life¹⁴⁷ given the irreversible harm and profound physical and psychological effects on women. Such practices cause suffering without regard for the human being enduring that pain. ICDC's reported practices are not an acceptable form of medical care at all but rather an infliction of deeply personal harm that deprives each woman operated upon without informed consent of the freedom to decide whether she wishes to someday "found a family"¹⁴⁸ by having a child. The reported acts deprive women detained at ICDC both of their right to physical security of person and bodily integrity. Taking away a woman's ability to choose whether or not to become pregnant, without her consent, constitutes torture, while other reported forms of invasive and unnecessary medical treatment is cruel and inhumane. The allegations contained in Project South's report indicate that such callousness characterizes the way in which ICDC has treated women in its custody: women are repeatedly sent to be sterilized, after ICDC's failure to follow mandated language interpretation protocols disallows some of them from understanding what will be done to them, and others have been lied to and coerced into sterilization and other invasive gynecological procedures by the very medical professionals responsible for their health and wellbeing.

Depriving women of their right to choose whether or not to eventually become mothers, without their consent, violates their right to autonomous decision making and, more broadly, their right to sexual and reproductive health.¹⁴⁹ While some of these women may never wish to have children, treating all of them as if their right to make that decision did not exist is inhuman. Those who wanted or might have wanted to have children later in life, realizing that that precious right has been usurped, will suffer doubly. As a result, non-consensual sterilization violates each individual's right "to the preservation of [her or his] health," as the wanton infliction of suffering necessarily destroys rather than preserves human health.¹⁵⁰

The United States has the obligation to prohibit all forms of violence against women, including forced sterilization, which is a form of gender-based violence.¹⁵¹ The Special Rapporteur on violence against women has asserted that forced sterilization is a method of medical control of a woman's fertility that violates a woman's physical integrity and security and constitutes violence against women.¹⁵² Moreover, the Special Rapporteur on torture has defined forced sterilization as a violation of the prohibition on torture or cruel, inhuman, or degrading treatment.¹⁵³ The Special Rapporteur noted the

¹⁴⁶ *Id.* at art. 2.

¹⁴⁷ G.A. Res. 217 (III) A, Universal Declaration of Human Rights art. 25, U.N. Doc. A/RES/217(III) (Dec. 10, 1948) [hereinafter UDHR]. The Committee Against Torture (CAT Committee) has asserted that forced sterilization violates human rights such as the right to be free from torture or ill-treatment. *See, e.g.*, CAT Committee, Concluding Observations: Peru, ¶19, U.N. Doc. CAT/C/PER/CO/5-6 (2012); CAT Committee, Concluding Observations: Czech Republic, ¶ 12, U.N. Doc. CAT/C/CZE/CO/4-5 (2012).

¹⁴⁸ ICCPR, *supra* note 32, at art. 23.

¹⁴⁹ International Federation of Obstetrics and Gynecology, *Ethical Issues in Obstetrics and Gynecology* 122-23 (Oct. 2012), <https://www.glowm.com/pdf/english%20ethical%20issues%20in%20obstetrics%20and%20gynecology.pdf>.

¹⁵⁰ Inter-Am, Comm'n on Human Rights (IACHR), American Declaration of the Rights and Duties of Man (May 2, 1948).

¹⁵¹ CEDAW Committee, Gen. Recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19, ¶ 18. U.N. Doc. CEDAW/C/GC/35 (2017).

¹⁵² Rep. of the Special Rapporteur on Violence Against Women, its Causes and Consequences: Policies and practices that impact women's reproductive rights and contribute to, cause or constitute violence against women ¶ 51, U.N. Doc. E/CN.4/1999/68/Add.4 (1999).

¹⁵³ Rep. of the Special Rapporteur on torture and other cruel, inhuman, or degrading treatment or punishment, U.N. Doc. A/HRC/22/53 (Feb. 1, 2013).

International Federation of Gynecology and Obstetrics’ position that a woman “must be given the time and support she needs to consider her choice. Her informed decision must be respected, even if it is considered liable to be harmful to her health.”¹⁵⁴ The Special Rapporteur emphasized that the doctrine of medical necessity cannot justify treatment provided without the free and informed consent of the person concerned.¹⁵⁵

The right to informed consent and sexual and reproductive health are recognized and reinforced by public health practice, as demonstrated by a 2014 interagency statement spearheaded by the World Health Organization.¹⁵⁶ This statement underscores that sterilizations performed without free and informed consent amount to torture or cruel, inhuman, and degrading treatment.¹⁵⁷ It also sets out important sterilization practice standards that ought to be followed, with autonomous decision making and non-discrimination at their core.¹⁵⁸

In light of the allegations made, the United States must provide women detained at ICDC the opportunity to have their right to an “effective remedy” determined by “competent authority provided for by the legal system of the State.”¹⁵⁹ If such a remedy is appropriate, the U.S. must further ensure that “the competent authorities shall enforce such remedy when granted.”¹⁶⁰ In this disturbing and heartbreaking situation, the United States is required to investigate “effectively, promptly, and impartially” the claims of non-consensual sterilizations made by women detained at ICDC, and “where appropriate, to take action against those responsible....”¹⁶¹ In short, the U.S. must thoroughly investigate the claims immigrant women detained by ICDC have made against the institution, and if necessary, impose appropriate legal consequences on all individuals and entities responsible for the harm they have suffered. Finally, it is the United States’ duty under international law to ensure that any woman who experiences such a brutal deprivation of her rights has a voice throughout the investigation and adjudication process; that the process itself respects the rights of any woman who has been harmed; and that any woman who may be entitled to relief receives a remedy that will allow her to move forward in her life with dignity.

b. The United States is Obligated to Ensure the Rights of All Persons within its Jurisdiction and Under its Custody and cannot Contract Away its Responsibilities and Accountability to Private Parties

¹⁵⁴ *Id.* at ¶ 33.

¹⁵⁵ *Id.* at ¶ 32.

¹⁵⁶ World Health Organization et al., *Eliminating forced, coercive and otherwise involuntary sterilization: An interagency statement* (2014), https://apps.who.int/iris/bitstream/handle/10665/112848/9789241507325_eng.pdf;jsessionid=4953E4ED784DF54B6146CE70D2A42A58?sequence=1.

¹⁵⁷ *Id.* pp 1-2.

¹⁵⁸ *Id.* pp. 9-10.

¹⁵⁹ ICCPR, *supra* note 32, at art. 2.

¹⁶⁰ *Id.*

¹⁶¹ G.A. Res. 60/147, Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, ¶ II(3)(a) (Dec. 16, 2005), <https://www.ohchr.org/EN/ProfessionalInterest/Pages/RemedyAndReparation.aspx>.

The United States is obligated to respect, protect, and fulfill the fundamental human rights of all persons held in its custody, including those detained under its authority in privately held detention centers. The United States' failure to ensure competent and safe medical care for women held under its authority at ICDC – and specifically, its disregard for the well-being of the women at ICDC which led to the non-consensual sterilizations and other abusive treatment, is a clear violation of its obligations under the International Convention on Civil and Political Rights (ICCPR), Convention against Torture (CAT), and the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), as well as the American Declaration of the Rights and Duties of Man.¹⁶² These instruments protect rights relevant to conditions in immigration detention, most notably the rights to life and freedom from inhumane treatment. Forced sterilization is a well-established violation of these rights.

Concerning the United States' obligation to respect the fundamental rights of persons held in its custody, according to the law of state responsibility, states are responsible for the conduct of a person or entity which is not an organ of the state but which is empowered by the law of the state to exercise elements of "governmental authority."¹⁶³ This includes private companies or parastatal entities involved in the carrying out of functions of a public character normally exercised by state organs. This attribution of responsibility to states is well-documented in international law: in *B.d.B. v. The Netherlands*, the UN Human Rights Committee found that "a State Party is not relieved of its obligations under the Covenant when some of its functions are delegated to other autonomous groups."¹⁶⁴ Additionally, the Inter-American Commission on Human Rights (IACHR) has stated: "States are responsible not only for the direct actions of their agents but also for that of third parties acting at the request of the State or with its tolerance or acquiescence."¹⁶⁵ Similarly, the UN Working Group on the use of mercenaries stated in its recent report on the use of private contractors in immigration and security contexts that "states retain their obligations when they privatize the delivery of services that may have an impact on the enjoyment of human rights."¹⁶⁶

The International Law Commission's commentary attached to the draft Articles of State Responsibility sets out a two-prong test for establishing state responsibility: firstly, the entity was empowered under internal law; and, secondly, the conduct concerned governmental or public activity.¹⁶⁷ Private companies contracted to run immigration detention centers, such as LaSalle, clearly meet these two prongs. These companies are empowered under United States domestic law to run facilities inherently exercising functions of a public character – detention. Consequentially, the United States is responsible for any human rights violations committed by these companies in the performance of their contractual duties. The United States (ICE) cannot escape its responsibilities and obligations through contracting out the running of immigration detention centers to LaSalle. The international human rights obligations owed to the immigrants detained under the United States' direct orders are non-delegable.

¹⁶² As a member of the Organization of American States (OAS), the United States is bound to uphold the rights set forth in the American Declaration on the Rights and Duties of Man. See Interpretation of the American Declaration of the Rights and Duties of Man Within the Framework of Article 64 of the American Convention on Human Rights, Advisory Opinion OC-10/89, Inter-Am. Ct. H.R. (ser. A) No. 10 (July 14, 1989).

¹⁶³ Int'l Law Comm'n, Rep. on the Work of the Fifty-Third Session, U.N. Doc. A/56/10, at 42 (2001).

¹⁶⁴ B. d. B. et al. v. The Netherlands, Communication No. 273/1989, U.N. Doc. Supp. No. 40 (A/44/40), at 286 (1989).

¹⁶⁵ Inter-American Comm'n on Human Rights, Rep. on the Human Rights of Persons Deprived of Liberty in the Americas, OEA/Ser.L/V/II. Doc.64, at 188 (2011).

¹⁶⁶ UN Human Rights Council Working Group on the use of mercenaries, Rep. on Impact of the use of private military and security services in immigration and border management on the protection of the rights of all migrants, U.N. Doc. A/HRC/45/9 (July 9, 2020).

¹⁶⁷ Int'l Law Comm'n, Rep. on the Work of the Fifty-Third Session, U.N. Doc. A/56/10 (2001).

Equally, the law of state responsibility applies to subcontractors, such as the medical doctor in the present situation.

While the details of non-consensual sterilization procedures against immigrant women have only very recently come to light, the United States has been on notice of persistent violations of human rights in the context of medical care within ICE detention centers for a considerable period of time. IACHR's 2011 report revealed serious concerns over "persistent complaints of improper medical care for immigration detainees."¹⁶⁸ Project South and others have submitted multiple communications to Congress¹⁶⁹ and the U.S. Civil Rights Commission¹⁷⁰ detailing inhumane treatment in detention centers in Georgia. In fact, eleven UN special procedures communicated their concerns to the U.S. government regarding these human rights violations. In 2017, Project South and the Penn State Law Center for Immigrants' Rights Clinic detailed the continued medical neglect experienced by immigrants in ICDC.¹⁷¹ Indeed, in 2018, a UN special procedure sent a communication outlining allegations of rights violations to LaSalle directly, and made this communication publicly accessible.

The issue of the United States' lack of supervision and accountability for rights violations committed against immigrants held in detention was raised by IACHR in its 2011 report: "current annual monitoring system is not adequately equipped to identify and reduce the violations of detention standards and human rights, particularly given the size of the U.S. immigration system."¹⁷² The IACHR observed then that even if ICE had effective oversight and supervision mechanisms, they would have little chance of favorably affecting immigrant detention conditions. This is because the only legally binding instrument dictating detention conditions are the contracts between ICE and the private companies. These contracts contain no legal mechanisms, short of termination of the contract, whereby ICE can ensure compliance with detention standards.¹⁷³ Disappointingly, little has been done to improve accountability within the system since this report, as demonstrated by the rebuffing of earlier complaints made by the ICDC whistleblower. Worse yet, ICE persists in contracting with companies such as LaSalle Corrections, Inc., despite a documented history of abuse and medical neglect and mistreatment.

The United States has continually failed to implement a sufficient system of supervision and accountability to ensure that these centers operate in a manner that is compliant with the United States' obligations under international law. Given the well-documented history of abuse, complaints arising from ICDC of incessant medical neglect and other rights violations, and complaints raised specific to Dr. Amin who has been identified as the doctor responsible for carrying out non-consensual sterilizations and other forms of patient mistreatment, the United States seeks to now deny responsibility.

¹⁶⁸ Inter-Am. Comm'n on Human Rights, *Report on Immigration in the United States: Detention and Due Process*, OEA/Ser.L/V/II, at 97 (Dec. 30, 2010), <https://www.oas.org/en/iachr/migrants/docs/pdf/migrants2011.pdf>.

¹⁶⁹ Letter from Project South to Georgia Delegation to the 116th United States Congress, Requesting the Immediate Release of Immigrants in ICE Custody in Georgia (Mar. 31, 2020), <https://projectsouth.org/wp-content/uploads/2020/04/Congressional-Letter-Requesting-the-Immediate-Release-of-Immigrants-in-ICE-custody-in-Georgia.pdf>.

¹⁷⁰ Letter from Project South to Members of the U.S. Commission on Civil Rights (May 13, 2019), <https://projectsouth.org/wp-content/uploads/2019/05/Comment-to-U.S.-Commission-on-Civil-Rights-Georgia-Detention-Centers.pdf>.

¹⁷¹ Project South *Imprisoned Justice*, *supra* note 30, at 47.

¹⁷² Inter-Am. Comm'n on Human Rights, *Report on Immigration in the United States: Detention and Due Process*, OEA/Ser.L/V/II, at 88 (Dec. 30, 2010), <https://www.oas.org/en/iachr/migrants/docs/pdf/migrants2011.pdf>.

¹⁷³ *Id.* at 92.

c. The United States must ensure that the women who come forward to assert their rights are protected from retaliation and are guaranteed their right of access to the courts and to full redress for the allegations set forth

As set forth above, the United States must take all possible measures to protect the rights of the women held in ICE custody. That includes ensuring the rights of the women who step forward to assert their rights are fully protected, and all measures must be taken to guard against any possible retaliation. As noted above, many of the women who came forward to raise their concerns regarding exposure to the COVID-19 virus and lack of adequate hygiene, sanitation, and access to medical care were put into solitary confinement following the release of their video pleading for help. In the time since the report of forced sterilizations and other medical abuse was released in September 2020, several of the complaining witnesses have had their deportations seemingly expedited.¹⁷⁴ At least five women subjected to treatment by Dr. Amin were deported in the month following submission of the September Complaint.¹⁷⁵ Alma Bowman, whose deportation was ultimately stopped following interventions by her lawyer Van Huynh and advocates with Georgia Detention Watch, Project South, and South Georgia Immigrant Support Network, assisted by Congressman Johnson, has claims to U.S. citizenship.¹⁷⁶ These apparent acts of retaliation directly interfere with the women's rights to petition and access redress, while also working to silence future women from stepping forward to assert their rights, and directly impeding the ongoing investigation into persistent rights abuses at ICDC, in direct violation of Arts. 2 and 10 of the ICCPR.

IV. CONCLUSION

In light of the egregious violations wrought against the women detained at ICDC, violations that have persisted with impunity and with callous disregard – at best – for the health and well-being of the immigrant women held in immigration detention, the undersigned organizations herein respectfully request the following:

- Seek an invitation from the United States to conduct a site visit to conduct an independent investigation into the alleged abuses and mistreatment of immigrant women held at ICDC;
- Issue a statement that recognizes the persistent medical neglect and rights abuses endured by immigrants held at ICDC and other immigrant detention centers in Georgia and across the United States, and the complete impunity with which these violations are carried out, creating an environment in which the most recent reported instances of forced sterilizations were allowed to happen;
- Issue a call for the United States to conduct a thorough and immediate investigation that meaningfully:
 - protects the right to life with dignity for all women who may have been subjected to the abuses set forth herein, including the right to be free from torture, women's sexual and reproductive health, the right to family life, the right not to be subjected to gender-based violence or other cruel, inhuman or degrading treatment, and the right to privacy;

¹⁷⁴ John Washington & Jose Olivares, *ICE Medical Misconduct Witness Slated for Deportation is a U.S. Citizen, Says Lawyer*, THE INTERCEPT (Nov. 2, 2020, 12:55 PM), <https://theintercept.com/2020/11/02/ice-medical-misconduct-us-citizen-deportation/>.

¹⁷⁵ Washington & Olivares, *supra* note 118.

¹⁷⁶ Washington & Olivares, *supra* note 173.

- ensures accountability not only for the medical personnel who specifically engaged in the non-consensual gynecological procedures, but for all those who failed in their oversight duties to ensure proper medical care for those held under their authority and jurisdiction; and
- protects those detained at ICDC from any retaliatory actions taken for asserting rights and participating in any investigation, including suspension of expedited removal and deportation procedures for all women treated by Dr. Amin and who have raised complaints about treatment at ICDC; and
- ensures full and equal access to remedies that are driven by the needs and interests of the women whose rights have been violated, including access to physical and mental health care necessitated by the treatment previously received.
- Call for an end to immigrant detention, and, in the interim, call for the protection and fulfillment of the full and equal rights of all persons, regardless of their migration status or detention status, to the rights to dignity, health and safety, bodily integrity, and other fundamental human rights to which the U.S. is obligated (under the ICCPR, the CAT, the AmDecl., and as a matter of customary int'l law).

We look forward to working with each of your respective offices in furtherance of the above recommendations.

Respectfully submitted,



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Project South

Joining in support of this submission are:

Detention Watch Network, Georgia Detention Watch, Georgia Latino Alliance for Human Rights (GLAHR), the South Georgia Immigrant Support Network, the Center for Reproductive Rights, the Feminist Alliance for Rights, and the Continental Network of Indigenous Women of the Americas.